

Great Brit. - George III

No 38

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For Sale of the Estate of Thomas Waite, an

Infant, for the Payment of Debts affecting

the same, and for applying the Surplus of

the Money arising thereby for the Benefit of

the said Infant.



PERCEAS by Indentures of Lease and Release, bearing Date respectively the First and Second Days of February, in the Year of our Lord One thousand Seven hundred and Forty-seven (the Release being tripartite, and made between Thomas Waite of Little Dalby, in the County of Leicester, Grazier, since deceased, of the first Part; Robert Rofs, of Odeby, in the said County of Leicester, Woolcomber, and Elizabeth his Wife; Rachael Waite, of Little Dalby aforesaid, Spinster; and Anne Waite, of Little Dalby aforesaid, Spinster, of the second Part; and William Blower, of Dalby Chalcomb, otherwise Great Dalby, in the said

said County of *Leicester*, Grazier, of the third Part. And by Virtue of a Fine Sur Conuzance de Droit come Ceo, &c. in the said Indenture of Release, covenanted to be levied by the said *Thomas Waite*, *Robert Rofs*, and *Elizabeth* his Wife; *Rachael Waite* and *Anne Waite*; and duly levied accordingly, as of *Hilary* Term, in the Twenty-first Year of the Reign of his late Majesty King *George* the Second, several Closes or Parcels of Pasture Ground; called or known by the Name of the *Upper* and *Nether Downs*; containing by Estimation in the whole Fifty Acres, more or less: And a Piece or Parcel of Marsh Ground, then lately divided into several Parcels, and commonly called, or known by the Names of *Great Banbooke*, *Little Banbooke*, *Stillum Lands*, and *Thifty Marsh*; containing by Estimation (in the whole) One hundred Acres or thereabouts, with their respective Appurtenances, all which Premises were reputed, or taken to be Part, or Parcel of the Manor or Lordship of *Southall* in *Raynham*, in the County of *Essex*; and are situate, lying, and being in the Parish of *Raynham*, in the County of *Essex*; and the Reversion and Reversions, and Remainder and Remainders of the same Hereditaments and Premises, WERE, for the Considerations in such respective Indentures mentioned, granted and conveyed to the said *William Blower* and his Heirs, TO HOLD to him and them, IN TRUST nevertheless, to, and for the only and absolute proper Use, and Behoof of him the said *Thomas Waite*, his Heirs and Assigns for ever.

And whereas one *Margaret Cooke*, Widow, lately deceased, was, at the Time of the Date and Execution of the above recited Indentures, Tenant for Life, in Possession of the said Hereditaments and Premises, and in the actual Receipt of the Rents and Profits thereof.

And whereas the said *Thomas Waite*, in and by his last Will and Testament in Writing, bearing Date on or about the Eleventh Day of *April*, One thousand Seven hundred and Fifty-two, devised all his Messuages, Cottages, Closes, Lands, Tenements, and Hereditaments whatsoever, in Possession, Reversion, or Remainder, unto his Son *Thomas Waite*, his Heirs and Assigns for ever, subject to the Payment of an Annuity of 15 *l.* to *Catherine Waite*, since deceased, (his the said Testator's Wife) for her Life to commence from the Decease of the said *Margaret Cooke*, who survived the said *Catherine*; and to the Payment upon a Contingency, which neither hath happened, nor now can, of One hundred Pounds to the Child or Children the said *Catherine*, was then Enfant of. And the said *Thomas Waite*, did, in and by his said Will, give one Half of his personal Estate, after Payment of his Debts and Funeral Expences, unto his said Wife, and the other Half thereof to his said Son: And appointed the Reverend Mr. *William Hartopp*,

Hartopp, of *Dalby* aforesaid, *Mr. Joseph Linney*, of *Burton Lazars* in the said County of *Leicester*, and *Francis Ellaby*, of *Dalby* aforesaid, *Grazier*, Guardians and Trustees for his said Son, untill he should attain his Age of Twenty-one Years. And did also appoint his said Wife Executrix, and the said *William Hartopp*, *Joseph Linney*, and *Francis Ellaby* (in Trust for his said Son) Executors of his said Will.

And whereas the said Testator departed this Life some short Time after the Date and Execution of his said Will, without altering or revoking the same, and was not at the Time of his Death, seized of, or intitled to any other real Estate, either in Possession, Reversion, or Remainder, save and except the Hereditaments and Premises above-mentioned.

And whereas the said Testator was, at the Time of his Decease, indebted upon several Mortgages, of or affecting his Interest in the said Hereditaments and Premises, to the several Persons herein after named, the several principal Sums following, to wit, to *Amos Cooke*, late of *Quarndon* in the said County of *Leicester*, Husbandman, deceased, the Sum of Seven hundred Pounds; to *Joseph Bakewell*, late of the Town and County of the Town of *Nottingham*, deceased, the Sum of Two hundred and Thirty Pounds; and to *Mary Dawson*, of *Melton Mowbray* in the said County of *Leicester*, the Sum of Two hundred Pounds. All which Sums together, amount to the Sum of One thousand One hundred and Thirty Pounds. And was also at the same Time indebted upon Bond to the several Persons herein after named, the several principal Sums following, that is to say, to the said *Joseph Bakewell*, the Sum of Sixty Pounds; to *William Reeve*, of *Melton Mowbray* aforesaid, Gentleman, as Executor of his late Father *John Reeve*, Gentleman, deceased, the Sum of Fifty Pounds; to the said *Robert Rofi*, the Sum of Three hundred Pounds; to the said *Anne Waite*, now the Wife of *Thomas Parker*, of *Coston*, in the said County of *Leicester*, Cordwainer, the like Sum of Three hundred Pounds, and to the personal Representative of the said *Rachael Waite*, the like Sum of Three hundred Pounds. All which said several principal Sums, due upon Bond, amount together to the Sum of One thousand and Ten Pounds, and are also a Lien or Charge upon such the said Hereditaments and Premises.

And whereas the said *William Hartopp*, and *Francis Ellaby*, have proved the Will of the said *Thomas Waite*, and possessed themselves of his personal Estate, which amounted in the whole to the Sum of Five hundred and Seventy Pounds Six Shillings and One Penny, or thereabouts;

abouts; whereof only the Sum of Two hundred and Forty seven Pounds Thirteen Shillings and Eleven-pence Three Farthings, or thereabouts, remains unapplied to the Purposes of the said Will.

And whereas the said *Thomas Waite* the Son, upon the Decease of the said *Margaret Cooke*, became, and now is intitled to the said Hereditaments and Premises in Fee Simple in Possession, which are of the yearly Value of One hundred and Fifty Pounds or thereabouts.

And whereas several of the Mortgagees of the said Hereditaments and Premises, are very urgent to be paid the principal Money and Interest to them respectively due and owing; and have threatened, and do threaten to enter upon the said Hereditaments and Premises, and to file Bills to foreclose the Equity of Redemption upon such respective Mortgages, and several of the said Bond Creditors have threatened, and do threaten, to proceed at Law for recovery of the Money to them respectively due and owing.

And whereas, as well to avoid the Inconvenience and Expence consequent upon such Proceedings as otherwise, it will be for the Benefit and Advantage of the said *Thomas Waite* the Son, who is yet an Infant, to wit, of about the Age of Ten Years, if the said Hereditaments and Premises were sold as soon as conveniently may be, and the Money arising from such Sale, and from the Rents and Profits thereof, in the mean time applied and disposed of in the manner herein after provided and directed. Yet the same cannot at present be effected without the Aid and Authority of Parliament, by reason of the Infancy of the said *Thomas Waite* the Son.

Therefore, May it please Your Most EXCELLENT MAJESTY, on the humble Petition of Your most Loyal and Dutiful Subjects, the said *William Hartopp* and *Francis Ellaby* on the Behalf of the said *Thomas Waite* the Infant, as his Guardians, that it may be Enacted,

And be it Enacted, by the KING's Most EXCELLENT MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the Authority of the same, that all the said Hereditaments and Premises, in the Parish of *Raynham* aforesaid, in the said County of *Essex*, containing as aforesaid, by Estimation, One hundred and Fifty Acres

Acres or thereabouts, with their, and every of their Appurtenances, shall be, and the same are hereby (nevertheless Subject, and without Prejudice to the Estates, Terms, and Interests of the said respective Mortgagees thereof) vested in the said

and their Heirs, for the Purposes herein after mentioned, (that is to say) to the End that they the said

Survivor of them, or the Heirs of such Survivor do with all convenient Speed sell and dispose of all the said Hereditaments and Premises hereby vested in them, together, or in Parcels, as they shall think fit; and out of the Monies to arise by such Sale or Sales, as also by the Rents and Profits of the same Hereditaments and Premises, in the mean time, which he and they are hereby impowered to receive, pay off, and discharge such of the said several principal Sums of Money due, and owing upon Mortgage and Bond respectively as aforesaid, as at the Time of making such Sale or Sales as aforesaid, shall remain unsatisfied and undischarged, together with the Interest for the same. And in case there shall be any Residue of the Money arising by such Sale or Sales as aforesaid, and from the said Rents and Profits to be received in the mean Time, after paying off the said principal Sums and Interest, and the Costs and Charges herein after directed to be paid thereout.

Be it Enacted, by the Authority aforesaid, that such Residue of the said Money shall, and may be laid out by the said

Survivor of them, his Heirs and Assigns, in the Purchase of the Fee Simple and Inheritance, in Possession of Lands and Tenements, in that Part of *Great Britain* called *England*, to be conveyed to, and to the Use of the said *Thomas Waite* the Son, his Heirs and Assigns. And be it enacted by the Authority aforesaid, that it shall and may be lawful, to, and for the said

Survivor of them, his Heirs and Assigns, in the mean Time, and until the said Residue of the Money to be produced by such Sale or Sales as aforesaid. And from the said Rents and Profits to be received, in the mean Time shall be laid out, and invested in such Purchase as aforesaid, to place out the said Residue upon real or Government Securities. And that the clear yearly Interest, Dividends, and Produce that shall be made of, or arise from the same, shall be paid to, and received by such Person or Persons, as, and to whom the Rents and Profits of the Lands and Tenements so directed, to be purchased and conveyed as aforesaid, if purchased and conveyed, would for the Time being be payable.

Provided always, and it is hereby further Enacted, by the Authority aforesaid, that in case the said *Thomas Waite* the Son, shall

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attain the Age of Twenty-one Years, before the said Residue of the Money to arise, and be produced as aforesaid, shall be invested in such Purchase as aforesaid, and shall be desirous after his Attainment of that Age, and before such Purchase as aforesaid made, to Receive, or Make Use of such Money; then, and in such Case, it shall and may be lawful, to and for the said

Survivor of them, his Heirs, and Assigns, and he, and they is, and are hereby authorized and required to pay, assign, or transfer the said Residue of the Money arising, and to be produced as aforesaid, together with the Interest attending the same, unto the said *Thomas Waite* the Son, or as he shall direct, or appoint, any thing herein contained to the contrary notwithstanding.

Provided also, and it is hereby further Enacted, by the Authority aforesaid, that it shall and may be lawful, to and for the said Survivor of them,

Heirs and Assigns of such Survivor, out of the Rents and Profits to be received by them as aforesaid, and also out of the Monies to arise by such Sale or Sales as aforesaid, to pay all such Sums of Money as shall be laid out, in, or about the obtaining, or passing of this present Act, and to defray all such Expences, as they, either, or any of them shall sustain, or be put unto, by reason of the Trusts hereby in them reposed, or the Execution thereof. And that neither of them the said Trustees, shall be answerable for the Receipt or Default of the other of them, or for any Monies that he shall not actually receive, notwithstanding he may have signed a Receipt for Conformity, or for any involuntary Loss. But that each of them shall be answerable for his own wilful Default only. Any thing herein contained to the contrary notwithstanding.

And be it further Enacted, by the Authority aforesaid, that all and every Person and Persons, Bodies Politic and Corporate, to whom the said Hereditaments and Premises, hereby vested in the said and their Heirs, to be sold as aforesaid, shall be by them, or the Survivor of them, his Heirs or Assigns, sold and conveyed in pursuance of this Act, their several and respective Heirs, Successors, and Assigns, shall and may lawfully have, hold, and enjoy the same, according to the several Estates and Titles that shall be so made to him or them, against the said *Thomas Waite* the Son, and his Heirs, and all and every Person and Persons claiming, or to claim, by, from, or under, or in Trust for him; and that the Receipt or Receipts of the said Trustees, or of the Survivor of them, his Heirs or Assigns, shall be sufficient Discharges to such Purchaser

Purchaser or Purchasers aforesaid, for the Consideration Money of such Purchases respectively, notwithstanding any subsequent Misapplication or Non-application of any Money so to be raised as aforesaid.

Saving, nevertheless, to the KING'S most EXCELLENT **MAYESTY**, his Heirs and Successors, and to the respective Mortgagees of the said Hereditaments and Premises hereby vested in the said and their Heirs, to be sold as aforesaid, and to all and every other Person and Persons, Bodies Politic and Corporate, other than and except the said *Thomas Waite*, the Son, and his Heirs, and all Persons claiming, or to claim, by, from, or under, or in Trust for him, all such Right, Title, Estate, Interest, Claim and Demand whatsoever, of, into, or out of all the Hereditaments and Premises to be sold as aforesaid, as they severally had, or might have had, of, into, or out of the same, in case this Act had never been made. Any thing herein contained to the contrary thereof in any wise notwithstanding.

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